Attorney's Docket: 1751
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REMARKS

The Office Action mailed June 15, 2005, has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. The amendments made herein are fully supported by the Application as originally filed. No new matter has been added. Accordingly, reconsideration of the present Application in view of the above amendments and following remarks is respectfully requested.

CLAIM STATUS

The claims pending in this Application are 18 - 20 and 23 - 26. New Claims 40 and 41 have been added to more distinctly point out and clarify Applicants' claimed invention. Consequently, the claims under consideration are believed to include claims 18-20, 23-26 and 40 - 41.

Claim Rejections Under Under 35 USC § 103(a)

Claims 18-21 stand rejected under 35 USC § 103(a) as being unpatentable over Joyner et al. (US 4,483,969) for the reasons cited in previous Office Actions. This rejection is respectfully overcome.

Applicants' invention, as defined by the amended claims, is directed to a method for treatment of a textile piece good that includes adding a monofunctionally end capped polyester to an aqueous liquor along with a thickening agent. Joyner et al. (US 4,483,969) neither discloses nor teaches such a combination.

Under § 103, a *prima facie* case of obviousness requires the prior art to provide some motivation for one with ordinary skill in the art to arrive at the claimed invention. Here, Joyner fails to provide the required motivation, as there is nothing within Joyner that would motivate one with ordinary skill in the art to use the monofunctional end capped polyesters as is claimed.

The Office states:

"Contrary to applicants arguments, Joyner et al. provide the

> required motivation to motivate one of ordinary skill in the art to add the thickening agent with the monofunctional end capped polyester as claimed. Specifically, Joyner et al. suggest end capped emulsifiable polyester wax in blends with various polyolefin, synthetic hydrocarbon and naturally occurring resins and rosins. See col.4, ln.45-65. Joyner et al. do not specifically teach the thickeners recited by the instant claims. However, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the teaching of Joyner et al. with a thickener chosen from the group comprising xanthan gum, and the recited polyacrylamides, because the broad teachings of Joyner et al. suggest end capped emulsifiable polyester wax in blends with various polyolefin, synthetic hydrocarbon and naturally occurring resins and rosins in general."

The referenced lines from Joyner at al., (col.4, ln.45-65), are directed to the composition of a glue stick for hot melt application. Clearly, the prior art does not contain the motivation necessary to establish *prima facie* obviousness. No one with ordinary skill in the art would contemplate adding a hot glue stick to a textile treatment bath in order to prevent crease marks.

In the previous office action the Office states,

> "Examiner is aware that the prior art recites the endcaps as polyfunctional , and the claims are drawn to monfunctional. However, prior art teaches the same endcap moieties as those recited by the material limitations of the instant claims, thus, the prior art teaches and provides motivation to use polyfunctional or monofunctional endcaps."

Applicants cannot agree, Joyner, et al., teach a linear polyester endcapped with a polyfunctional organic anhydride, (see Column 1, lines 6 -8 and Column 1, line 66 through Column 2, line 2). In Joyner, et al., the polyester wax is prepared by a two stage process, first reacting a dibasic acid and a glycol, (see Column 1, lines 60 – 66), with subsequent endcapping with a polyfunction organic anhydride, (see Column 1, line 66 through Column 2, line 2). The moieties used in Joyner, et al., which the Office states "are recited by the instant claims", are for use as the glycol in the first stage reaction of Joyner, et al. and not as endcapping moieties.

Furthermore, MPEP § 2143.03 states, "To establish *prima facie* obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior

art.", (emphasis added). Here, Joyner, et al., can not render obvious the claimed invention, as Joyner, et al. can not provide the impetus for the ordinary artisan to employ monofunctional endcapping moieties. Simply put, Joyner, et al., do not teach, disclose, or suggest all the elements of the claimed invention. Applicants therefore contend, respectfully, that Joyner et al., do not make claims 18-20 obvious under 35 USC § 103.

Claim 21 has been canceled by the previous Amendment and consequently Applicants respectfully request this rejection be withdrawn.

Claims 18-26 stand rejected under 35 USC § 103(a) as being unpatentable over Miracle et al. (US 5,576,282). This rejection is respectfully overcome.

With respect to § 103, a *prima facie* case of obviousness requires the prior art to provide some motivation for one with ordinary skill in the art to arrive at the claimed invention. Here, Miracle, et al., fail to provide the required motivation, as there is nothing within Miracle, et al., that would motivate one with ordinary skill in the art to use a home laundry detergent as a lubricant in the manufacture of a textile fabric. One with ordinary skill, having a knowledge of Miracle, et al., could not arrive at the conclusion that one or more constituents within a household laundry detergent could be used as a lubricant in the manufacture of textiles. The inability to arrive at such a conclusion follows logically from the fact that Miracle, et al., do not suggest, disclose, or teach such application. Nor would such reference, as Miracle, et al., is directed to a disparate and distinct area of technology. Laundering of textile fabric is not technically commensurate to their manufacture. Applicants contend the Office is using impermissible hindsight to pick and choose the components extant in the prior art and thusly arrive at the instant claims. The Office's attention is courteously directed to *Ruiz v. A.B. Chance Co.*, 357 F.3d 1270, 1275 (Fed. Cir. 2004), wherein it is stated:

> "[t]he "as a whole" instruction in title 35 prevents evaluation of the invention part by part. ... This form of hindsight reasoning, using the invention as a roadmap to find its prior art components, would discount the value of combining various existing features or principles in a new way to achieve a new result - often the very definition of invention."

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As the prior art does not contain the motivation necessary to establish a *prima facie* case, Applicants contend, respectfully, that Miracle et al. does not make claims 18 – 20 and 23 - 26 obvious under 35 USC § 103.

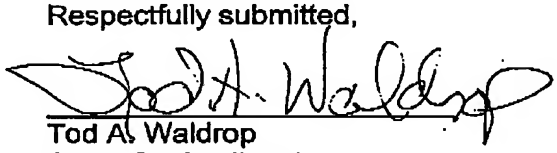
Claims 21-22 have been canceled by the previous Amendment and thus Applicants respectfully request this rejection be withdrawn.

In view of the foregoing, Applicants respectfully seek reconsideration and withdrawal of the § 103 rejections.

As the total number of claims does not exceed the number of claims originally paid for, no fee is believed due. However, if an additional fee is required, the Commissioner is hereby authorized to credit any overpayment or charge any fee deficiency to Deposit Account No. 03-2060.

In view of the forgoing amendments and remarks, the present Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, she is requested to contact the agent for Applicants at the telephone number provided below.

Respectfully submitted,



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